

AMENDED IN ASSEMBLY APRIL 29, 2003  
AMENDED IN ASSEMBLY MARCH 13, 2003  
AMENDED IN ASSEMBLY FEBRUARY 18, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 13**

**Introduced by Assembly Member Harman**  
***(Coauthor: Assembly Member Jackson)***

December 2, 2002

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An act to add and repeal Section 118.7 of the Streets and Highways Code, relating to the Department of Transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 13, as amended, Harman. Department of Transportation: transfer of property.

Existing law provides that the Department of Transportation (hereafter Caltrans) has full possession and control of all state highways and all property and rights on property acquired for state highway purposes. Various provisions of existing law specifically provide for the acquisition, transfer, and use of Caltrans property.

This bill would authorize Caltrans, until January 1, 2008, to transfer environmental mitigation property that is ~~located within the city limits of Huntington Beach and~~ not part of the highway right-of-way to a public agency or to a nonprofit corporation that is organized for open space or land conservation purposes. The bill would authorize Caltrans to enter into a cooperative agreement with a public agency or nonprofit corporation that is transferred environmental mitigation property in order to provide funding for future maintenance of the property. The bill

would require a public agency or nonprofit corporation that is transferred environmental mitigation property to be responsible for the future maintenance of the property and would provide that the property would revert to the department if the property is not maintained.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 118.7 is added to the Streets and  
2 Highways Code, to read:

3 118.7. (a) Notwithstanding any other provision of law, the  
4 department may, upon terms, standards, and conditions approved  
5 by the commission, transfer environmental mitigation property  
6 ~~located within the city limits of Huntington Beach~~ to a public  
7 agency or to a nonprofit corporation that is qualified pursuant to  
8 Section 501(c)(3) of the Internal Revenue Code and is organized  
9 for, among other things, open space or land conservation purposes.

10 (b) For the purposes of this section, “environmental mitigation  
11 property,” means property owned by the department that is  
12 required by state or federal law, or by permit conditions imposed  
13 by a state or federal agency, to be preserved or restored as natural  
14 habitat to offset the environmental impacts caused by the  
15 construction and operation of a state highway improvement  
16 project. However, “environmental mitigation property” does not  
17 include property that is part of highway operating right of way.  
18 Environmental mitigation property shall be maintained as natural  
19 habitat in accordance with the permit conditions.

20 (c) As a condition to the transfer of environmental mitigation  
21 property pursuant to subdivision (a), the department may enter  
22 into a cooperative agreement with the transferee to provide  
23 funding for the future maintenance of the property consistent with  
24 any mitigation performance goals imposed by state or federal law  
25 or conditions imposed by a state or federal agency. In determining  
26 the amount of the funding provided, the department shall consider  
27 the costs of maintaining the property and shall offset from the  
28 amount of those costs any benefit or value received by the  
29 transferee as a result of the transfer.

30 (d) (1) The public agency or nonprofit corporation to which  
31 the department transfers the environmental mitigation property



1 shall assume the long-term responsibility for the future  
2 maintenance of the property.

3 (2) (A) If the public agency or nonprofit corporation fails to  
4 maintain the property in the manner required by law and in the  
5 manner described in subdivision (b), or if the nonprofit  
6 corporation ceases to exist, the property shall automatically revert  
7 to the department.

8 (B) If the property reverts back to the department pursuant to  
9 this paragraph, any remaining funds from the original transfer  
10 pursuant to subdivision (a) shall revert back to the department.

11 (C) Any costs, including legal costs, associated with reversion  
12 pursuant to this paragraph shall not accrue to the department.

13 (e) (1) All deeds conveying property in accordance with this  
14 section shall include a restriction limiting the use of the property  
15 solely for environmental mitigation purposes in accordance with  
16 the permit conditions specified in subdivision (b).

17 (2) All deeds conveying property in accordance with this  
18 section and deeds related to a transfer or assignment of property  
19 under this section shall be filed with the county recorder's office  
20 in the county where the property is located.

21 (f) The public agency or nonprofit corporation to which the  
22 department transfers environmental mitigation property shall not  
23 do either of the following:

24 (1) Transfer or assign the property to another entity without  
25 approval from the department.

26 (2) Transfer or use the property for a private commercial  
27 interest.

28 (g) This section shall remain in effect only until January 1,  
29 2008, and as of that date is repealed, unless a later enacted statute,  
30 that is enacted before January 1, 2008, deletes or extends that date.

